



Memorandum

Development Services

DATE: October 28, 2004

TO: Mayor and City Council

FROM: Lusia Galav, AICP Deputy Development Services Manager
Steve Venker, Planning & Zoning Manager
Ryan Levesque, Planner I

SUBJECT: Final Draft Zoning and Development Code

SUMMARY:

On October 12, 2004, the Planning and Zoning Commission approved a Final Draft Zoning and Development Code for recommendation to the City Council. The Green Final Draft has been previously provided to you. The Commission has provided a tremendous amount of review and input on the code. Culminating from five work study sessions and twenty-three public hearings, the final draft code has developed into an even better document for City Council and public review. Planning Commission Chair Charles Huellmantel and Vice-Chair Michael DiDomenico will present the draft document to the Council at the IRS tonight and will be available for questions and comments.

The September 28, 2004 Final Draft Code (the green book) you will be reviewing is based on the original draft code dated June 2003 created from the work of the Citizens Advisory Committee (CAC), OTAK and staff augmented with the revisions and recommendations suggested by the Planning and Zoning Commission through their public hearing process. After presentation of the document to the Council by the Chair and Vice Chair, staff will make a presentation on the document to give a brief history of the process, list the significant changes from the current ordinance to the draft Zoning Code, request direction from Council to schedule public hearing dates and agree on the format of the hearings.

After the public hearing process commences and the Council further refines the code, staff will track the changes in legislative format. When all revisions and refinements have been made, staff will create the final version for Council to adopt. Once the code is adopted, it requires a 30 day cure period and thus would become law 30 days after adoption.

COUNCIL DIRECTION REQUESTED:

Staff requests the Mayor and Council provide direction on the following items:

1. That the process as outlined by staff for review of the code is appropriate or refine it as needed.
2. Schedule the public hearings (at least two are needed).

STAFF RECOMMENDATION:

Staff recommends the Council approve the process and schedule public hearing on the draft code for:

Introduction/1st public hearing:	November 18th
2nd public hearing:	December 9th

*Note – Additional public hearings may be required and will be scheduled as needed.

ATTACHMENTS:

Exhibit A:	Executive Summary of the September 28, 2004 Final Draft Zoning Code
Exhibit B:	Staff Recommended Changes to the September 28, 2004 Final Draft Zoning Code

Exhibit A

Executive Summary of the September 28, 2004 Final Draft Zoning Code

The existing Zoning Ordinance was established in 1976 and was focused on outward growth. Tempe has since transformed from a growth community to one that is focused on reinvestment, revitalization and redevelopment. The proposed Zoning and Development Code is intended to address Tempe's future development needs. A key to Tempe's future is maintaining a variety of housing options and preserving our neighborhoods. We must also re-establish our shopping and employment options so that Tempe continues to attract new investment and jobs. Sales tax will continue to be a critical part of our economic stability and the proposed Code offers options for revitalizing our shopping centers.

The following is not intended to be a complete recitation of all the new ideas and standards contained in the draft code. It is a list of what we believe to be the major proposals in the draft code. It is important to note that the Code will not rezone any property; it only modifies some standards in existing districts and renames some districts. We have presented the summary in the order in which they occur in the draft code.

Section 1-201 Violations and Penalties. Establish the ability to levy civil sanctions or criminal misdemeanor complaint for violations of the Code.

Section 1-304 Hearing Officer. Currently the Hearing Officer must forward any cases that receive protest to the Board of Adjustment. The new code will allow the Hearing Officer to decide the case and any party can appeal the decision to the Board of Adjustment.

Section 1-306 Planning and Zoning Commission. The authority of the Planning and Zoning Commission is proposed for expansion. They would be able to take final action (unless appealed) on major use permits.

Section 1-308 Design Review Board. Increase the Design Review Board staff's authority to approve expansions for existing buildings up to 5,000 square feet.

Section 1-309 City Council. The Council would only act as an appeal body on decisions for use permits, development plans, and sign permits from the Design Review Board, Redevelopment Review Commission and Planning and Zoning Commission. Decisions on variances would be appealed to Superior Court.

Section 2-102 Residential Districts. The draft code contains a new R-5 multi-family zoning district. This district has a higher density (maximum 30 dwelling units per acre) than we currently have available.

Section 2-103 Commercial Districts. The draft code consolidates the CCR, C-1 and C-2 zoning districts into one district, named the Commercial Shopping and Service District (CSS). This eliminates some duplication of zoning districts and provides a more level field for our smaller commercial properties to compete on. The new district blends the standards and the allowed uses from the three existing districts.

Section 2-103 Mixed-Use Districts. There is also an additional Mixed Use District (MU-3) to fill the gap between the existing MU-2 and MG districts. The MG district is renamed MU-4.

Section 2-104 Industrial Districts. The proposed code renames the Industrial Buffer District to the (LID) to more accurately reflect its intent and uses. It also consolidates the Light Industrial District (I-1) and the General Industrial District (I-2) into the new General Industrial District (GID). These districts currently have the same uses but slightly different standards and the renamed district will use the current I-2 standards so we don't create any non-conforming situations. This will bring the land use classifications more inline with the General Plan.

Table 3-102 Accessory Dwelling Units. The draft code proposes Accessory Dwelling Units to be allowed in multi-family zoning districts. These units are limited in size and require a use permit but can be leased separate from the main house. See Section 3-402 for specific details.

Table 3-102 Animals. The draft code proposes small animals be allowed in residential districts. This would permit a resident to have animals such as chickens, rabbits and other similar small animals up to a maximum of five each. This would exclude roosters and peafowl (peacocks) specifically. The keeping of fowl would still need to follow the regulations that are identified in City Code for separation distance requirements.

Table 3-102 Guest Quarters. There is a proposed change to allow Guest Quarters subject to a use permit in all single family districts. These units could not be leased separate from the main house. See Section 3-411 for specific details.

Table 3-102 Home Occupations. The draft code contains changes to the standards for home occupations. The draft will require a use permit to allow an outside employee, not residing on the premises. See Section 3-412 for details.

Table 3-102 Live-work. The concept of live-work is included in the draft. This is allowed in some commercial and multi-family zoning districts with a use permit and in the CC and MU zoning districts by right. In either case, it would allow two (2) employees. More than two (2) would require a use permit. See Section 3-414 for details.

Table 3-102 Amateur Radio Antennas. There are revised standards for amateur radio antennas (ham radios) in the code. The proposal would allow them up to thirty-five (35) feet in height, but would require a use permit to increase the height, and that they be retractable when not in use. These standards are more liberal than our current ordinance, but don't go as far as requested by amateur radio operators. See Section 3-422 for details.

Table 3-202A Permitted Uses in Commercial. The draft code proposes that most commercial zoning districts can add residential uses to their mix of uses. This would require a use permit and appropriate public hearings. This can encourage reinvestment in some of our aging centers and create a stronger economic base. This will also bring the land use classifications more inline with the General Plan. We have also eliminated the requirement for some zoning districts requiring use permits for all types of uses, and identifying uses that are more appropriate to that commercial district.

Section 4-201 Development Standards. Many of our development standards (heights, setbacks, lot coverage etc) have been revised to reflect what has been approved over the past few years, as well as to provide some additional flexibility in using our limited land resources. These revisions include the concept of allowing a dual set of standards for most scenarios. There would be those rights that are automatically allowed and a second set allowed subject to a use permit. Refer to Tables 4-202A, 4-202B, 4-202C 4-203A, 4-203B and 4-204. This should increase the flexibility in how we use our land yet retain citizen involvement through the public hearing for the use permit.

Section 4-303 Transportation Improvements. The code now contains the standards for public street improvements as well as standards that require traffic calming under certain situations. It also contains requirements for compliance with the standards contained in the Americans with Disabilities Act.

Section 4-400 Building Design. The code contains requirements that qualifying projects must comply with the Public Safety Radio Amplification System to help provide our Fire and Police staff with the tools to safely complete their missions.

Section 4-404 Building Height Step-Back. The draft code proposes a step back in height for projects located adjacent to single-family dwellings as well as multi-family dwellings.

Section 4-500 Access and Circulation. Contains requirements for driveway locations, as well as shade and lighting of pathways. It also establishes construction standards for pathways.

Section 4-603 Parking Maximums. The draft code contains parking maximums. The idea is to preclude excessive asphalt and heat islands when possible. To address some concerns from the development community, it does not apply to multi-phased projects until the last phase is constructed and then only for surface parking. Parking structures and below ground parking are exempt.

Table 4-603E Parking Ratios. The draft code revises some of the vehicle and bicycle parking requirements to reflect what has been approved and functioning over the past few years.

Section 4-604 Shared Parking. Removed the requirement that shared parking requires a use permit. This constraint doesn't seem necessary given the track record for shared parking. Also, the standards for the parking model were adjusted as provided in Appendix F to reflect what has been approved and functioning in Tempe.

Section 4-700 Landscape. The new code proposes to keep the same quality of landscape improvements currently found in Tempe but allow alternative methods of achieving the results. This increased flexibility should result in enhanced landscape improvements that provide more effective and functional shade and visual interest.

Section 4-800 Lighting. Crime Prevention Through Environmental Design (CPTED) standards have been incorporated into the draft code. Currently, CPTED standards are administered as a negotiation during processing. It is believed that by including them into the code, and the fact that CPTED is now administered by the Planning Staff, that these standards will be more readily understood and accepted. Other CPTED standards for building design and landscape improvements are incorporated in those respective sections.

Section 4-900 Signs. Several proposed changes to the sign chapter of the code include:

- The draft code will allow centers to have freestanding multi-tenant signs by right.
- The proposed code will allow centers to have additional freestanding signs. The new standard would allow one sign for every 300 feet of property frontage for the center. This standard is consistent with what has been approved through variances.
- It also allows single use buildings on their own lot to have a freestanding sign.
- Freestanding business/center identification signs would be increased from 24 square feet to 32 square feet in area for sites that are less than 10 acres and allow up to four (4) tenant names per sign face.
- For sites that are 10 acres in size or greater freestanding business/center identification signs would be increased from 24 square feet to 40 square feet in area, up to ten (10) feet in height and allow up to six (6) tenant names per sign face.
- Freeway identification signs: Allows buildings that are located within 300 feet of a freeway to have additional building mounted signs that are oriented to the freeway. This would allow these businesses to have two (2) square feet of sign area for every one (1) foot of building frontage facing the freeway in addition to their other signs. It would also allow a freestanding sign for centers that are adjacent to a freeway. These signs could be 35 feet in height and contain 120 square feet of sign area and must be located within 300 feet of the freeway right of way.
- The allowed height of building mounted signs will be the same as the building height itself.
- Portable signs are prohibited except for real estate lead in signs and boutique directional signs.
- Allow grand opening signs for 30 calendar days with the possibility of extending the time for another 30 calendar days if permanent signs aren't ready.
- Allow significant event signs once per year, for up to 14 calendar days.
- Banner signs would be allowed for special events that are sanctioned by the special events committee.
- Allow apartment communities the same signs for initial lease up as a subdivision is allowed to have.

- Allow places of worship, theaters and museums to have freestanding marquee signs.

Section 5-401 Planned Area Development Zoning Overlay District. The new code contains a Planned Area Development Overlay District. This designation will allow a creative solution to infill parcels and will establish development standards that are unique to the project.

Section 6-304 Specific Plans. The Code reserves a place for Specific Plans. The code initially contained a proposal for the creation and processing of Specific Area Plans but at the request of the Neighborhood Advisory Commission (NAC) we have removed that section from the code. The NAC is working on creating a separate process for the establishment of such documents and will present it at a later time.

Section 6-402 Neighborhood Meetings. The new code establishes the standard that any project that requires a public hearing and is located within 300 feet of a residence or residential zoning district will need to conduct a neighborhood meeting prior to the public hearing. The applicant will be required to post and reasonably maintain the signs for the meeting. Sign size will be either six (6) or sixteen (16) square feet in area depending on the type of request. See Section 6-402 E. for specific details. The applicant will need to provide a written report on the neighborhood meeting to the staff in time for it to be included in the public hearing report.

Section 6-404 Notice for Public Hearings. The Code will require that public hearing signs be no smaller than sixteen (16) square feet in area and be reasonably maintained by the applicant.

Appendixes. Included in the draft code is a series of appendixes that include design guidelines, plant lists, art in private development, shared parking procedures, the fee schedule and a reserved section for future zoning administrator opinions.

Exhibit B

Staff Recommended Changes to the September 28, 2004 Final Draft Code

Staff acknowledges the Planning and Zoning Commission's extensive time and effort to prepare a draft code that the entire city can be proud of. In our efforts to provide a thorough draft document and clarify all land use intent, the following is a list of additional staff recommendations that are either new or differ from the Commissions' recommendations. These items will be forwarded as part of the City Council report at the time of the Public Hearings on the Code for further consideration:

Board of Adjustment, staff recommends retaining the initial intent of the Board of Adjustment as an appeal body for HO decision. As recommended by Planning Commission, the application is processed to either the Board of Adjustment or Hearing Officer, with the Development Services Manager determining the applicable body.

Joint Review Committee/MU-Ed District, staff recommends incorporating the new language for creating a Joint Review Committee and the MU-Ed district for projects within a Public University. These items were approved by City Council, amending zoning ordinance 808.

Accessory Buildings, staff recommends deleting Section 3-401 C. 1. As recommended by Planning Commission, a *use permit* is required for *accessory buildings* in the AG and all Single-Family Residential Districts.

Agricultural Uses, staff recommends modifying the distance required for separation of apiaries (bee hives) to reflect the current ordinance. As recommended by Planning Commission, the distance is set at 1,000 feet.

Low Water Use Landscape, staff recommends modifying this section to reflect the original draft language regarding requirements for residential subdivisions. As recommended by Planning Commission, the text does not match the City's agreement with Arizona Department of Water Resources.

Freestanding Identification Signs, staff recommends reducing the size for freestanding signs and retain the previous proposed sizes for freestanding signs. As was recommended by Planning Commission, the size of freestanding signs has been increased.

Preliminary Review Conference, staff recommends modifying Section 6-202 A.4. to remove quantitative time required for preliminary review applications. As recommended by Planning Commission, the time given is twice as long as the review time that is accomplished administratively.

Definitions, staff recommends additional definitions to help clarify land uses and their appropriate districts as listed in the residential, commercial, mixed-use and industrial permitted uses charts.

Appendix for Retail and Service Uses, staff recommends including a list of retail and service uses which are not described in the Zoning Code's land use chart of permitted uses. This appendix list will help clarify additional uses that fall under the similar category of general retail or service.

Planned Area Development Overlay Districts and R1-PAD, staff recommends adding the requirement of a minimum one-half ($\frac{1}{2}$) acre site for use of PAD overlays and the R1-PAD district. Removal of a one-half acre minimum from PAD overlays was recommended by Planning Commission.

Errata, staff will provide a list of recommended corrections that are intended to clarify the language in the code, typographic corrections, and provide a consistent format throughout the document.